

REMARKS

The present application includes pending claims 1-29, all of which have been rejected. The Applicant submits that the pending claims define patentable subject matter.

Claims 1-2, 4, 7-9, 19-20 and 23-24 stand rejected under 35 U.S.C. § 102(b) as being anticipated by United States Patent No. 5,305,363 (“Burke”). Claims 1, 3-5, 7, and 9 stand rejected under 35 U.S.C. § 102(a) as being anticipated by WIPO Patent No. WO 03/002002 A1 (“Okamura”). Claims 11-15 and 18 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Reissued United States Patent No. Re. 35,035 (“Anderton”). Claims 11-12, 15-16, and 18 stand rejected under 35 U.S.C. § 102(b) as being anticipated by United States Patent No. 5,226,064 (“Yahata”). Claims 1-4, 6-7, and 25-26 stand rejected under 35 U.S.C. § 102(b) as being anticipated by United States Patent No. 6,669,366 B2 (“Busse”).

Claim 10 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Okamura in view of Innovative Technology Summary Report (ITSR), Portable X-ray, K-Edge Heavy Metal Detector. Claim 17 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Yahata in view of Innovative Technology Summary Report (ITSR), Portable X-ray, K-Edge Heavy Metal Detector. Claim 21 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Burke in view of Busse. Claim 22 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Burke in view of Innovative Technology Summary Report (ITSR), Portable X-ray, K-Edge Heavy Metal Detector. Claims 25 and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Burke in view of Okamura and Anderton. Claim 28 stands rejected under 35 U.S.C. §

103(a) as being unpatentable over Busse in view of Okamura. Claim 29 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Busse in view of Burke.

The Applicant respectfully traverses these rejections at least for the reasons previously set forth during prosecution and the following:

I. Burke Does Not Anticipate Claims 1-2, 4, 7-9, 19-20, And 23-24

The Applicant first turns to the rejection of claims 1-2, 4, 7-9, 19-20, and 23-24 as being anticipated by Burke. “A claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *See* MPEP at § 2131 (internal citation omitted). Further, “[t]he identical invention must be shown in as complete detail as it is contained... in the claim.” *See id.* (internal citation omitted). As discussed below, Burke does not expressly or inherently describe “every element as set forth” in the claims of the present application.

A. Burke Does Not Describe An Auxiliary Module Removably Connected To Said Imaging Device Having A Cooling Unit Configured To Cool Liquid To A Chilled State And Circulate The Chilled Liquid That Is Cooled By The Cooling Unit Itself

Burke describes a scanning system that circulates cooling fluid through a heat exchanger to keep a target anode cool.

The housing and the anode define an annular cooling fluid path or channel 12 in intimate thermal communication with the anode face, specifically along an opposite surface of the anode. The anode can be a large continuous member or assembled form (sic) multiple sections. Optionally, the anode can have internal passages, fins, and the like to promote thermal communication with the cooling fluid. A fluid circulating means 14 circulates the fluid through the stationary anode and housing to a heat exchanger 16 to keep the target anode cool.

See Burke at column 5, lines 1-11.

While the system utilizes a “cooling fluid,” Burke does not describe a cooling unit to cool the fluid to a chilled state. Instead, Burke describes only a fluid by itself that is not cooled by any cooling device. Thus, Burke does not, expressly or inherently, describe a **cooling unit** configured to cool liquid **to a chilled state** and circulate **the chilled liquid** to and from the imaging element.

Claim 1, for example, recites a cooling unit that cools liquid to “a chilled state” and circulates the “chilled liquid.” While Burke describes a heat exchanger that circulates fluid to cool an anode, it does not describe a unit that cools the temperature of the fluid being circulated to a point in which it is considered “chilled.” The previous office action stated that “to chill” is defined as “to lower in temperature; cool.” *See* June 5, 2006, Office Action at page 16. But, as pointed out in response to that office action, the relevant claims do not recite the verb “to chill.” They recite the adjective “chilled.” *See* Claims 1 and 19. The adjective, “chilled,” is defined as “chilly,” which is further defined as “cold enough to cause shivering” and “seized with cold.” *See* Webster’s II New College Dictionary (2001) (copy at relevant page attached as Tab A to January 10, 2006 Amendment). Claims 1 and 19 were previously amended to emphasize this latter use of the term “chilled”. *See* January 10, 2006 Amendment at pages 2 and 5.

Unlike the previous office actions, the current Office Action acknowledges that “chilled” is being used in the claims as an adjective as opposed to a verb. The Office Action, nevertheless, maintains the rejection by resorting to a different dictionary than the one cited by the Applicant over ten months ago. The dictionary cited in the current Office Action defines the term “chilled” as: “subjected to a process that chills.” *See* November 3, 2006 Office Action at page 19 (citing Webster’s New International

Dictionary of the English Language, Second edition, unabridged, 1958). The Office Action, thereafter, simply asserts that “chills is synonymous with ‘cools’”. See November 3, 2006 Office Action at page 19. The definitions of “chills” and “cools” as set forth in the Examiner’s preferred dictionary, however, are not the same. See Webster’s New International Dictionary of the English Language, Second edition, unabridged, 1958.

Further, the Office Action’s reliance on a 1958 dictionary instead of the Applicant-proffered 2001 dictionary is contrary to claim construction principles. See, e.g., *Phillips v. AWH Corp.*, 415 F.3d 1303, 1313 (Fed. Cir. 2005) (“We have made clear, moreover, that the ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question **at the time of the invention**, i.e., as of the effective filing date of the patent application.”) (emphasis added).

Also, Burke does not describe “an auxiliary module” that both cools and circulates cooling fluid. Burke describes a circulating means that is separate and distinct from a heat exchanger, neither of which is part of “an auxiliary module” as recited in claims 1 and 19. See Burke Fig.1 items 14 and 16. The Office Action states that it interprets “an auxiliary module” as recited in claims 1 and 19 to be “components that are specifically designed to perform a unique function and then configured to operate in a coordinated fashion as is described by Burke et al.” See November 3, 2006 Office Action at page 20. The Office Action does not identify any factual or legal support for interpreting “an auxiliary module” spread across distinct components. Furthermore, the

interpretation is contrary to the description of auxiliary module 24 in the specification of the patent application.

Finally, Burke does not disclose that the circulating means, or the heat exchanger, is removably connected to the imaging system as described in claims 1 and 19. The December 21, 2005, Office Action stated that the circulating means and the heat exchanger components in Burke are “considered to be removably connected since the two fluid transfer tubes and one cable can be cut... .” *See* December 21, 2005, Office Action at page 19. Applicant responded by arguing that “[r]emovably connected, however, does not mean severable by cutting. Removably connected means capable of being disconnected and subsequently reconnected.” *See* January 10, 2006 Amendment at 10. The June 5, 2006 Office Action then stated that the term “removably connected” means “removable by any means.” June 5, 2006 Office Action at page 16. Such an interpretation effectively reads out the entire limitation of “removably connected.” Additionally, such an interpretation is inconsistent with the specification:

For example, the cooling duct may be configured to be positioned over the imaging element during periods of imaging; but, when the imaging device is not in operation, the cooling duct may be removed from the imaging element and stored with the auxiliary module.

Specification at ¶ 8.

The fluid outlets 48, 56 and the fluid inlets 44 and 54 include structures, such as check valves, to ensure that fluid does not escape when the cooling unit 32 is not in operation and/or when the tubes 46 and 58 are not connected thereto.

Specification at ¶ 24.

The current Office Action acknowledges that “Burke et al. does not seem to disclose a system including ‘means’ for removably connecting the circulating means”. *See* November 3, 2006 Office Action at page 20. Nevertheless, the current Office Action asserts that the term “removably connected” is disclosed by Burke because the “circulating means of Burke et al. is capable of being disconnected and subsequently reconnected, by cutting and then reattaching”. *See* November 3, 2006 Office Action at page 20. Notably, however, Burke does not disclose that the circulating means is capable of being cut and reattached. The Office Action simply assumes that the circulating means can be cut and reattached. In any event, the Office Action’s interpretation of the term “removably connected” effectively vitiates that claim limitation. The term “removably connected” should be interpreted, however, in light of the specification, including, in particular, paragraphs 8 and 24.

Thus, for at least these reasons, the Applicant respectfully submits that Burke does not anticipate claims 1-2, 4, and 19 of the present application, nor claims 7-9, 20, and 23-24, which depend from claims 1 and 19.

B. Burke Does Not Describe An Auxiliary Module Comprising Both A Cooling Unit And A Booster Battery Pack

The Applicant now turns to claim 19. Though Burke describes a heat exchanger for circulating fluid, as well as an energy storage device, Burke does not expressly or inherently describe an auxiliary module comprising devices that perform both functions, nor does it describe a module that is removably connected as described by claim 19. The previous Office Action relied on two separate and distinct figures from Burke as anticipating claim 19.

...Burke et al. teaches **an auxiliary module** (See **Fig. 1 item III**) **comprising a cooling unit** configured to circulate chilled liquid to and from the imaging element, wherein the chilled liquid absorbs heat produced by the imaging element (See Fig. 1 item 14 and 16, Fig. 2 item 10 and 12, Col. 5 lines 1-11); **and a booster battery pack**, wherein said booster battery pack is configured to be electrically connected to the medical imaging system in order to provide additional power to the medical imaging system. (See Fig. 1 item III, Fig. 2 item 93 ad Col. 6 line 66- Col. 7 line 4)...

See June 5, 2006 Office Action at pages 3-4. Fig. 1 of Burke shows a CTR scanner system while Fig. 2 shows the x-ray source and detector. See Burke at Figures 1-2. The components cited in that previous Office Action, however, do not expressly or inherently describe a **single auxiliary module** comprising **both** a cooling unit **and** a booster battery pack. The current Office Action states that it interprets “an auxiliary module” as recited in claim 19 to be “components that are specifically designed to perform a unique function and then configured to operate in a coordinated fashion as is described by Burke et al.” See November 3, 2006 Office Action at pages 21-22. The Office Action does not identify any factual or legal support for interpreting “an auxiliary module” as multiple components. Furthermore, the interpretation is contrary to the description of auxiliary module 24 in the specification.

For at least these reasons, the Applicant respectfully submits that Burke does not anticipate claims 19, 20 and 23-24.

II. Okamura Does Not Anticipate Claims 1-5, 7, And 9

The Applicant now turns to the rejection of claims 1-5, 7, and 9 as being anticipated by Okamura. The Examiner cites Okamura as anticipating claims 1-5, 7 and 9 of the present application and provides U.S. Patent Application Publication document

US2004/0234040 A1 (“Okamura Publication”) as an English language translation of the WIPO document cited.

A. Okamura Does Not Describe An Auxiliary Module Removably Connected To A Medical Imaging Device That Both Cools Liquid To A Chilled State And Circulates The Chilled Liquid

According to the Okamura Publication, Okamura discloses an X-ray tube device that is cooled by a system that uses insulating oil circulating within the interior of the X-ray tube device, a heat exchanger, an oil pump, cooling tubes, and an additional cooling device that includes a water pump, a water tank, a refrigerator and an evaporator.

The X-ray tube device 1 is cooled by the insulating oil 3 circulating in the interior of the X-ray tube device 1. The insulating oil 3 is circulated by an **oil pump 2** between the interior of the X-ray tube device 1 and a **heat exchanger 4** for the X-ray tube device. The heat of the insulating oil 3 is exchanged with the heat of the cooling water 5 in the heat exchanger 4.

The X-ray detector 14 is accommodated in, for example, a glass casing 15, and a cooling tube 16, through which the cooling water 5 flows, is disposed on the upper surface of the glass casing 15. The **cooling device 13** is provided with a cooling **water tank 7** in which the cooling water 5 is stored, and the cooling water 5 in the cooling water tank 7 is suctioned by a cooling **water pump 6** and introduced into a **cooling tube 16** through a flexible resin cooling water tube 18. The cooling water 5, which has passed through the **cooling tube 18**, and the cooling water 5, which has passed through the heat exchanger 4, is returned into the cooling water tank 7 through the cooling water tube 18. In the cooling water tank 7, a liquefied refrigerant supplied from a **refrigerator 9** is evaporated by an **evaporator 8**, thereby the cooling water 5 is cooled.

See Okamura Publication Paragraph [0022], line 9 – Paragraph [0023], line 17.

Okamura, however, does not expressly or inherently, describe an auxiliary module that is **removably** connected (*i.e.*, capable of being disconnected and

subsequently reconnected) to an imaging device as recited in claim 1. Further, Okamura does not expressly or inherently describe **a module that by itself** is able to “to cool liquid to a chilled state and circulate the chilled liquid to and from said imaging element, wherein the chilled liquid absorbs heat produced by said imaging element,” as recited in claim 1. For at least these reasons, the Applicant respectfully submits that Okamura does not anticipate claims 1-5, 7, and 9.

B. Okamura Does Not Disclose A Cooling Duct That Is Removably Connected To Said Imaging Element

With respect to claim 5, Okamura discloses cooling tubes that circulate cooling water in order to cool an X-ray detector. However, Okamura does not, either expressly or inherently, describe cooling ducts that are removably **connected** to an imaging element as described in claim 5 of the present application. The December 21, 2005, Office Action stated:

The X-ray detector 14 is accommodated in, for example, a glass casing 15, and a cooling tube 16, through which the cooling water 5 flows, is disposed on the upper surface of the glass casing 15. This does not require it to be permanently affixed to the plate but merely be disposed on (be put in place).

See December 21, 2005, Office Action at page 22. Apparently, the Office Action assumed that, because Okamura does not describe permanent affixation (*i.e.*, a non-removable connection), then it must describe a temporary affixation (*i.e.*, a removable connection). In actuality, however, Okamura simply describes a contacting. In that regard, Okamura describes a cooling tube “**thermally** connected to one of the surfaces of the casing on which the x-ray detecting elements are disposed.” See Okamura at ¶ 15. Despite the word “connected”, there is no physical connection of any kind disclosed in

Okamura. There is only a contacting. *See* Okamura Figures 3-5, parts 14 and 16. The term “removably connected” as interpreted in light of the specification requires a physical connection. *See, e.g.*, Specification at ¶¶ 8, 24. At least for this reason, the Applicant respectfully submits that Okamura does not anticipate claim 5 of the present application.

III. Anderton Does Not Anticipate Claims 11-15 and 18

The Applicant next turns to the rejection of claims 11-15 and 18, as being anticipated by Anderton.

A. Anderton Does Not Describe An Auxiliary Module That Is Separate, Distinct, And Removably Connected Directly To A Medical Imaging Device

Anderton does not expressly or inherently disclose an auxiliary module that is separate, distinct, and removably connected (*i.e.*, capable of being disconnected and subsequently reconnected) **directly** to a medical imaging device, as recited in claims 11-15. The batteries cited in Anderton (Fig 2. item 49) are a part of the medical imaging device (*i.e.*, the C-Arm X-Ray Unit) itself and are, thus, not a part of an auxiliary module that is separate, distinct and removably connected to the medical imaging device. The issue is not whether the batteries cited in Anderton are in “electrical connection” as stated by the Office Action but whether Anderton discloses an auxiliary module that is “separate, distinct, and removably connected directly to said medical imaging device” as recited in claim 11. Claim 11 refers to the term “connected” twice and the Office Action has blurred the distinction between the two uses of the term. Claim 11 recites, in part:

an auxiliary module having a booster battery pack, wherein said **booster battery pack** is configured to be **electrically connected** to the medical imaging device in order to provide additional power to the medical imaging device,

wherein said **auxiliary module is separate, distinct, and removably connected directly to said medical imaging device.**

It is the latter use of the term “connected” that Anderton clearly does not disclose. The fact that the batteries in Anderton may be in “electrical connection” does not teach or support an auxiliary module that is “removably connected directly to said medical imaging device” as recited in claim 11. For at least these reasons, the Applicant respectfully submits that Anderton does not anticipate claims 11-15 and 18 of the present application.

B. Anderton Does Not Disclose An Auxiliary Module That Is Permanently Affixed To One Of A Floor Or A Wall

Claim 15 recites:

The medical imaging system of claim 11, wherein said auxiliary module is permanently affixed to one of a floor and a wall.

With respect to claim 15, the Examiner notes: “The Applicant has failed to claim a structure or means to affix the medical imaging system to one of a floor or a wall.” *See* November 3, 2006 Office Action at pages 25. The Office Action, however, provides no explanation or supporting authority as to how such a “failure” should result in anticipation by Anderton, which does not disclose an auxiliary module permanently affixed to one of a floor and a wall. For at least this additional reason, the Applicant respectfully submits that Anderton does not anticipate claim 15 of the present application.

IV. Yahata Does Not Anticipate Claims 11-12, 15-16, and 18

The Applicant next turns to the rejection of claims 11-12, 15-16, and 18 as being anticipated by Yahata.

A. Yahata Does Not Disclose An Auxiliary Module Having A Booster Battery Pack... Wherein Said Auxiliary Module Is Separate, Distinct, And Removably Connected Directly To Said Medical Imaging Device

Yahata discloses a secondary power supply source capable of supplying peak power during a scanning operation.

When the scanning operation is carried out, the DC output derived from the rectifier circuit 2 is superimposed with the DC power supplied from the secondary battery unit 5 and then supplied to the high power consumption unit.

See Yahata at column 4, lines 58 – 62.

Yahata does not, however, either expressly or inherently describe “an auxiliary module having a booster battery pack... wherein said auxiliary module **is separate, distinct, and removably connected** (*i.e.*, capable of being disconnected and subsequently reconnected) directly to said medical imaging device” as described in claim 11 of the present application. Instead, Yahata describes a secondary battery unit that is electrically connected in circuit with a commercial power supply source, and a high power consumption unit, (e.g. an X-ray tube drive unit) such that the battery source is receiving a charge from the commercial supply source when not supplying power to the high power consumption unit.

[T]he **secondary battery unit 5A** is employed as the major power supply source to a high voltage transformer 11 via a chopper circuit 12 and a DC/AC inverter 13. As a result, the high DC power may be supplied from the secondary battery unit 5A during the scanning operation, and **this secondary battery unit 5A is charged from the single-phase commercial power source 1** during the non-scanning operation. Also, an X-ray tube 9 may be sufficiently driven by this battery unit 5A during the scanning operation.

Id. at column 5, line 67 – column 6, line 9; *see also id.* at Fig 1, items 1, 3, 5, 100 and column 2, line 63 – column 3, line 27.

Yahata describes a battery unit electrically connected with both the imaging device and the commercial power supply source. Yahata does not, however, expressly or inherently describe an auxiliary module having a battery booster pack that is “separate, distinct, and removably connected directly to said medical imaging device,” as recited in claim 11. At least for these reasons, the Applicant respectfully submits that Yahata does not anticipate claims 11-12, 15-16, and 18 of the present application.

B. Yahata Does Not Disclose An Auxiliary Module That Is Permanently Affixed To One Of A Floor Or A Wall

Claim 15 recites:

The medical imaging system of claim 11, wherein said auxiliary module is permanently affixed to one of a floor and a wall.

With respect to claim 15, the Examiner notes: “The Applicant has failed to claim a structure or means to affix the medical imaging system to one of a floor or a wall.” *See* November 3, 2006 Office Action at pages 26. The Office Action, however, provides no explanation or supporting authority for how such a “failure” should result in anticipation by Yahata, which does not disclose an auxiliary module permanently affixed to one of a floor and a wall. At least for this additional reason, the Applicant respectfully submits that Yahata does not anticipate claim 15 of the present application. For at least this additional reason, the Applicant respectfully submits that Yahata does not anticipate claim 15 of the present application.

V. Busse Does Not Anticipate Claims 1-4, 6-7, 25-26

The Applicant next turns to the rejection of claims 1-4, 6-7, 25-26 as being anticipated by Busse. Busse discloses a system that applies a cooling medium from a heat exchanger to an X-ray detector and an X-ray source. *See* Busse column 3 lines 4-19.

Busse discloses the following:

The heat exchanger is preferably arranged outside the supporting device; however, a compact heat exchanger can also be integrated in the C arm or be arranged on the C arm when the construction of the overall system is to be smaller.

Id. column 2, line 66 – column 3, line 3.

Busse, however, does not describe a cooling unit that is part of an auxiliary module **removably connected** (as that term is discussed above) to the imaging device, as recited in claim 1. Nor does Busse disclose a method of cooling an x-ray tube involving an auxiliary module that is connected “in a removable fashion to the mobile x-ray device” as recited in claim 25.

In rejecting claim 6, the first Office Action stated that the auxiliary module of Busse is a part of the entire system. *See* August 5, 2005 Office Action at page 10 (“...entire system is mobile which includes auxiliary module”). Further, in rejecting claim 7, the first Office Action stated that the cooling unit is an integral part of the medical imaging system. *See id.* (“Busse et al. describes the cooling unit as an integral part of the medical imaging system.”) In response, the Applicant pointed out that the first Office Action appeared to concede that the module containing the cooling unit is not taught to be **removably** connected from the imaging system. *See* October 13, 2005 Amendment at page 20.

The current Office Action, however, states: “The module of Busse et al. is capable of being disconnected and subsequently reconnected, by cutting and then reattaching or by any means of removing and reattaching.” *See* November 3, 2006 Office Action at page 27. Busse, however, fails to disclose that the Busse module is capable of being cut and reattached. The Office Action simply assumes this. In any event, the Office Action’s interpretation of the term “removably connected” entirely reads the limitation out of the claims. Moreover, the term “removably connected” should be interpreted in light of the specification, including, in particular, paragraphs 8 and 24. For at least these reasons, the Applicant respectfully submits that Busse does not anticipate claims 1-4, 6-7, or 25-26.

VI. Claim Rejections Under 35 USC § 103

The Applicant respectfully submits that independent claim 25 and dependent claims 10, 17, 21, 22, and 27-29, which depend from claims 1, 11, 19, 20, and 25, respectively, are in condition for allowance for at least the reasons discussed above.

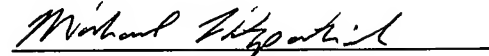
VII. Conclusion

The Applicant respectfully submits that the pending claims of the present application should be in condition for allowance at least for the reasons discussed above and request reconsideration of the claim rejections. If the Examiner has any questions or the Applicant can be of any assistance, the Examiner is invited to contact the undersigned attorney for the Applicant. The Commissioner is authorized to charge any necessary fees or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

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